THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.12852 OF 2007

DATED: 01-10-2007

BETWEEN

Ramisetty Venkateswarlu,
S/o. Gopalaiah,
Occ: Business,
R/o. Muthukur Village & Mandal,
Nellore District.

...PETITIONER

AND

The Mandal Tahasildar,
Muthukuru Mandal,
Muthukuru, Nellore District.

...RESPONDENT

ORDER:

The undisputed facts are that the revenue building Shop No.2, Mothukuru Village & Mandal, Nellore District, was leased out in favour of the petitioner for a period of one year on monthly rent of Rs.650/- from 26.11.2004 and the lease agreement expired on 25.11.2005. Thereafter the petitioner was not evicted but he was permitted to continue as a lessee on payment of rents regularly.

2. Learned counsel for the petitioner submits that though the rents have been paid regularly till April 2007 the respondent directed the petitioner to vacate the aforesaid shop on 15.06.2007, therefore, the petitioner seeks a Writ of Mandamus to declare the action of the respondent in attempting to evicting him from the said premises without following due process of law as illegal and arbitrary.

3. Counter has been filed stating that the said revenue building consists of four shops leased out to the petitioner and three others and the lessees in respect of shop Nos.1, 3 and 4 have vacated, as the revenue building requires expansion. Accordingly, the petitioner was informed to vacate the shop on 31.03.2007 and at the request of the petitioner to grant time, he was allowed to vacate by 31.05.2007 and again as per the request of the petitioner, the time to vacate the said premises was extended up to 15.07.2007. It is stated that the petitioner having agreed to vacate the premises did not vacate.

4. I am of the opinion that if the petitioner fails to vacate the said premises after the expiry of the lease; without passing an order evicting the petitioner, the respondents cannot forcibly throw him away out of the said premises. If the petitioner is an unauthorized occupant appropriate action has to be taken under the Andhra Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1968 and
if he is an authorized occupant the lease has to be terminated under the Andhra Pradesh Government Lands and Buildings (Termination of Leases) Act, 1986. In the instant case, admittedly there is no lease subsisting and therefore, he is an unauthorized occupant only. However, without following due procedure prescribed in law, it is not open to the respondent to evict the petitioner from the said premises in question.

The writ petition is accordingly disposed of directing the respondent to follow due procedure prescribed in law for evicting the petitioner. There shall be no order as to costs.

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V. ESWARAIAH, J

October 1, 2007
DSK